

SUPREME COURT SYLLABI.

Continued from page 12.

act regulating the fees and salaries of county treasurer, county clerk, sheriff, county attorney, probate judge, register of deeds, clerk of the district court, and county superintendent of public instruction, of Marshall county, Kansas," is under the authority of board of county commissioners of Miami county vs. Hiner—Kas.—, unconstitutional and void.

All the justices concurring.

A true copy.

Attest:

C. J. BROWN,
Clerk Supreme Court.

7122.

The Southern Kansas Railway Company vs. William T. Griffith.

Error from Douglas County.

REVERSED.

SYLLABUS. BY THE COURT. ALLEN, J.

1. In an action against a railway company by one of its employees to recover damages for injuries occasioned by the negligence of the defendant or its servants, the negligence proven at the trial and found by the jury as a basis for a general verdict in favor of the plaintiff, must correspond with the averments of the petition.

2. The plaintiff was a switchman in the yard of the defendant at Cherryvale. While employed in switching cars, he jumped from a car to the ground at a place where repairs were being made in the track, caught his foot on a projecting tie which was being placed in the track, fell, and his arm was run over and crushed by the wheels. The petition alleges that the defendant was negligent "in causing and allowing said excavations to be made, and said excavated dirt to be placed upon the ground near said track, and in allowing said cross-ties to project and extend beyond and above said track, and in not placing and maintaining danger signals at points proper to indicate the place, or places where such excavations and obstructions were," and "in requiring and ordering services of this plaintiff at such time and in such place and without any negligence on the part of this plaintiff." The jury found in answer to a special question that the negligence of the defendant was "in failing to notify yard master of the repairs that were then being made in their yard." Held, that the negligence found by the jury does not correspond with that charged in the petition, and that a new trial must be awarded because of the variance.

Horton, C. J., and Johnston, J., concurring.
Allen, J., dissenting.

A true copy.

Attest:

C. J. BROWN,
Clerk Supreme Court.

7311.

The Farmers State Bank of Alton vs. The Pennsylvania Investment Company.

Error from Osborne County.

AFFIRMED.

SYLLABUS. BY THE COURT. ALLEN, J.

1. Where a person seeking to make a loan on real estate makes material false statements as to the character of the security offered, and of the improvements on the lands, concerning which the mortgagee is not otherwise informed, the mortgagee after having advanced a part of the money on the loan may on discovery of the truth, refuse to pay over the balance of the loan, and may after having offered to return the note and cancel the mortgage on repayment, retain the note and mortgage as security for the money already advanced. The mortgagee will not be driven to an election between an action to rescind the contract and recover the money advanced, and an action for damages resulting from the plaintiff's fraud.

2. An application for a loan on real estate, signed in blank by the mortgagor, and delivered to an agent with the instruction to copy the statements contained in an application to another company, and which is afterwards so filled up by such agent, is an original instrument, and admissible in evidence without producing the application from which the statements were copied.

All the justices concurring.

A true copy.

Attest:

C. J. BROWN,
Clerk Supreme Court.

73.5.

Flint & Walling Manufacturing Company, vs. The Douglass Sugar Company, et al.

Error from Cowley County.

REVERSED.

SYLLABUS. BY THE COURT. ALLEN, J.

1. A petition in error will not be dismissed for want of proper parties where substantial relief sought by the plaintiff in error can be afforded in this court without affecting the rights of any of the parties not in court.

2. Under chapter 141 of the laws of 1872, the lien of parties who furnished machinery required and contemplated by the original plan of a structure erected for the manufacture of sugar, during the course of its erection, which went into and became a part of the sugar works as originally designed, and which were fixed to and became a part of the reality, dates from the commencement of the building and is superior to that of a mortgage whose mortgage was executed after the commencement of the building, but before the machinery was actually furnished.

All the justices concurring.

A true copy.

Attest:

C. J. BROWN,
Clerk Supreme Court.

IN THE SUPREME COURT

OF THE STATE OF KANSAS.

I, C. J. Brown, clerk of the supreme court of

the state of Kansas, do hereby certify that the foregoing are true and correct copies of the syllabi of the decisions in the above entitled cases as the same appear on file in my office. Witness my hand and the seal of the supreme court, this 10th day of December, 1894.

[SEAL]

C. J. BROWN,
Clerk Supreme Court.

MARKET REPORTS.

Kansas City Live Stock.

KANSAS CITY, Dec. 10.—Cattle—Receipts since Saturday, 6,221; calves, 65; shipped Saturday, 2,263; calves, 100. The steer market was dull and weak to 200 lower; cows, calves and bulls active, steady; feeders strong; stockers steady. The following are representative sales:

DRESSED BEEF AND EXPORT STEERS.
16.....1,302 \$4.25 40.....1,251 \$4.15
41.....1,215 4.05 18.....978 3.30

WESTERN STEERS.

50 L. Aris...\$2.00

COWS AND HEIFERS.

1.....1,020 \$3.50 2.....1,800 \$3.30
23.....1,118 3.15 21.....945 3.15
30.....914 3.05 9.....1,020 3.00
9.....877 2.85 40.....877 2.77 1/2
23.....894 2.75 12.....1,005 2.75
20.....1,055 2.60 5.....1,164 2.50
4.....967 2.50 3.....853 2.50
4.....1,045 2.35 4.....507 2.00
32.....853 2.32 1/2 9.....1,135 2.30
24.....800 2.25 1.....1,000 2.25

TEXAS AND INDIAN STEERS.

62 fed.....1,066 \$3.00 23 fed I... 948 \$3.30

TEXAS AND INDIAN COWS.

166.....855 \$2.30 30.....880 \$2.10

STOCKERS AND FEEDERS.

17.....910 \$3.35 4.....587 \$2.80
10.....717 2.90 52.....812 2.75
22.....770 2.90 48.....638 2.70
31.....628 2.70 34.....630 2.70

Hogs—Receipts since Saturday, 7,038; shipped Saturday, 963. The market was dull and about 50 lower. The top was \$4.40 and the bulk of sales were \$4.15 to \$4.30, against \$4.45 for top, and \$4.15 to \$4.35 for bulk Saturday. The following are representative sales:

62...276 \$4.40 65...321 \$4.37 1/2 68...284 \$4.37 1/2
68...333 4.37 64...330 4.37 1/2 13...405 4.35
72...280 4.35 91...237 4.32 1/2 74...237 4.32 1/2
68...233 4.30 54...309 4.30 75...229 4.30
82...247 4.25 80...247 4.25 39...234 4.25
67...250 4.25 56...223 4.25 62...231 4.25
62...245 4.25 62...241 4.25 70...244 4.25
178...143 4.25 61...250 4.25 38...239 4.25
58...281 4.25 80...223 4.25 68...232 4.22 1/2
83...222 4.20 61...204 4.20 78...225 4.20
56...225 4.20 43...241 4.20 76...234 4.20
91...195 4.17 1/2 97...213 4.15 38...196 4.15
90...204 4.15 62...208 4.15 76...197 4.15
74...293 4.15 60...237 4.15 85...232 4.15
79...219 4.10 79...195 4.10 47...212 4.10
69...193 4.05 79...201 4.05 77...207 4.00
76...191 4.00 101...196 3.95 91...188 3.90
48...201 3.85 84...181 3.75 72...155 3.60

Sheep—Receipts since Saturday, 782; shipped Saturday, 328. The supply was small and mostly common to trashy feeding sheep. Good muttons, lambs and feeders were in strong demand and active at strong prices, but poor sheep were neglected and weak. The following are representative sales:

80 lambs.... 80 \$3.60 5 lambs.... 96 \$3.50
6 lambs.... 75 3.00 12 ewes.... 150 3.00
100 sh & l... 115 2.95 40 sh & l... 100 2.70

Horses—Receipts since Saturday, 115; shipped Saturday, 51. The market was quiet.

Chicago Live Stock.

CHICAGO, Dec. 10.—Hogs—Receipts, 41,000; official Saturday, 15,855; shipments Saturday, 2,564; left over, about 9,000; quality fair; market moderately active; heavy lots steady; others grades weak. Sales ranged at \$3.85 to \$4.15 for light; \$4.10 to \$4.25 for rough packing; \$4.10 to \$4.55 for mixed; \$4.30 to \$4.75 for heavy packing and shipping lots; pigs, \$4.25 to \$4.00.

Cattle—Receipts, 22,000; official Saturday, 1,838; shipments Saturday, 1,145; market dull; prices 10c lower.

Sheep—Receipts, 17,000; official Saturday, 4,551; shipments Saturday, 1,236; market slow; weak; prices easy.

St. Louis Live Stock.

ST. LOUIS, Dec. 10.—Cattle—Receipts, 4,000; market easier; good to choice native steers, \$3.50 to \$5.00; stockers and feeders, fair to good, \$1.80 to \$2.40; feeders, fair to good, \$2.40 to \$3.30; Texas steers, \$2.50 to \$3.50; veal calves, \$3.00 to \$5.00. Hogs—Receipts, 2,000; market 5c to 10c lower; heavy, \$4.80 to \$4.50; mixed, \$3.90 to \$4.40; light, \$3.90 to \$4.20. Sheep—Receipts, 1,000; market steady.

Kansas City Grain.

KANSAS CITY, Dec. 10.—There were the usual light offerings of wheat to-day and the demand was sufficient to take all the samples at Saturday's prices, despite the weakness of the speculative market.

Receipts of wheat to-day, 81 cars; a year ago, 171 cars.

Car lots by sample on track at Kansas City at the close sold as follows: No. 2 hard, 52c; No. 3 hard, 50c to 51c; No. 4 hard, 48c; rejected, 46c to 47c; No. 2 red, 50c to 51c; No. 3 red, 49c to 50c; No. 4 red, 48c to 49c; rejected, 46c to 47c.

The trade in corn was very slow. Offerings were liberal and the demand was for small lots. Prices were held about steady, though some corn was carried off the floor unsold.

Receipts of corn to-day, 90 cars; a year ago, 271 cars.

Sales by sample on track Kansas City: No. 2 mixed corn, 16 cars 42c, 20 cars 41c; No. 3 mixed, nominally 41c; No. 4 mixed, nominally 40c to 41c; No. 3 white, 10 cars 42c; No. 3 white, nominally 41c to 42c under No. 3 white.

Oats were in fair demand and not many were on sale. Prices were unchanged.

Receipts of oats to-day, 6 cars; a year ago, 40 cars.

Sales by sample on track in Kansas City: No. 2 mixed oats, 1 car 31c, 5 cars 30c, 3 cars 30 1/2c, 1 car 30 1/2c; No. 3, nominally 29c to 30c; No. 4, nominally 27c to 28c; No. 3 white oats, nominally 29c; No. 3 white, nominally 30c to 31c.

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55107 head handled during 1893. All stock sold direct from the farmer, free from disease, and new to be represented or no sale. Write for market report, mailed free. Address, W. S. TOUGH & SON, Mgrs., Kansas City, Mo.

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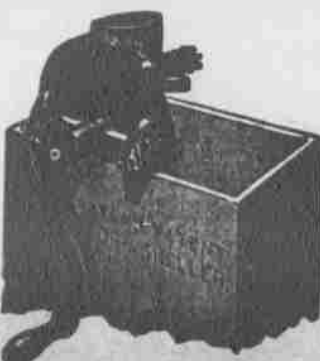
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	Cattle and Calves.	Hogs.	Sheep.	Horses and Mules.	Cars.
Official Receipts for 1893....	1,746,828	1,948,373	569,517	35,097	99,756
Slaughtered in Kansas City....	956,792	1,427,768	372,385		
Sold to Feeders.....	249,017	101,125	71,284		
Sold to Shippers.....	360,387	510,469	15,900		
Total sold in Kansas City....	1,566,046	1,948,357	458,869	22,522	

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